Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Authority to Carry Scheme (Civil Penalties) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 957

IMMIGRATION
PREVENTION AND
SUPPRESSION OF TERRORISM

The Authority to Carry Scheme (Civil Penalties) Regulations 2015

Made - - - -	*24th March 2015*
Coming into force - -	*31st March 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 24 of the Counter-Terrorism and Security Act 2015(**1**).

In accordance with section 24(7) of that Act, a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Authority to Carry Scheme (Civil Penalties) Regulations 2015.

(2) These Regulations come into force on the seventh day after the day on which they are made.

(3) These Regulations cease to have effect at the end of the period of seven years beginning with the day on which these Regulations come into force.

Commencement Information

I1 Reg. 1 in force at 31.3.2015, see **reg. 1(2)**

Interpretation

2. In these Regulations—

"authority-to-carry scheme" means the scheme, under section 22 of the Counter-Terrorism and Security Act 2015, that was laid before Parliament in draft on 2nd March 2015;

(**1**) 2015 c. 6.

"carrier" has the meaning given in regulation 3(1);

"IA 1971" means the Immigration Act 1971(**2**);

"notice of objection" has the meaning given in regulation 5;

"penalty notice" has the meaning given in regulation 4.

Commencement Information

I2 Reg. 2 in force at 31.3.2015, see **reg. 1(2)**

Penalty for breach of an authority-to-carry scheme

3.—(1) This regulation applies to a person (a "carrier") who is required by the authority-to-carry scheme to seek authority from the Secretary of State to carry persons on aircraft, ships or trains.

(2) The Secretary of State may require the carrier to pay a penalty if satisfied that the carrier has breached any of the following requirements of the scheme—

(a) a requirement to seek authority to carry a person;

(b) a requirement to provide specified information by a specified time before travel;

(c) a requirement to provide information in a specified manner and form;

(d) a requirement to be able to receive, in a specified manner and form, communications from the Secretary of State;

(e) a requirement not to carry a person where the Secretary of State has refused authority to carry the person.

(3) Separate penalties may be imposed under sub-paragraphs (a), (b) and (e) of paragraph (2) for breaches relating to different people travelling on the same aircraft, ship or train.

(4) In paragraph (2) "specified" means specified in the authority-to-carry scheme.

(5) The Secretary of State may not require a carrier to pay a penalty if—

(a) the carrier shows that there was a reasonable excuse for the breach, or

(b) paragraph (6) applies.

(6) This paragraph applies where—

(a) the breach consists of a failure to comply with a requirement that the carrier is also obliged to comply with by virtue of paragraph 27, 27B(**3**) or 27BA(**4**) of Schedule 2 to IA 1971 and—

(i) a penalty has been imposed on the carrier, under regulations made under paragraph 27BB of that Schedule, in respect of the same failure, or

(ii) proceedings have been instituted against the carrier, under section 27 of IA 1971, in respect of the same failure;

(b) the breach consists of a failure to comply with a requirement that the carrier is also obliged to comply with by virtue of section 32 or 32A of the Immigration, Asylum and Nationality Act 2006(**5**) and—

(i) a penalty has been imposed on the carrier, under regulations made under section 32B of that Act, in respect of the same failure, or

(**2**) 1971 c. 77.
(**3**) Paragraph 27B was inserted by the Immigration and Asylum Act 1999 (c. 33), section 18.
(**4**) Paragraph 27BA was inserted by the Counter-Terrorism and Security Act 2015, paragraph 1 of Schedule 5.
(**5**) 2006 c. 13.

(ii) proceedings have been instituted against the carrier, under section 34 of that Act, in respect of the same failure; or

(c) in the case of a failure consisting of the provision of false information, proceedings have been instituted against the carrier, under section 5 of the Perjury Act 1911(**6**), in respect of the same failure.

(7) A penalty imposed under this regulation may not exceed £50,000.

(8) The penalty is payable to the Secretary of State on demand.

Commencement Information

I3 Reg. 3 in force at 31.3.2015, see **reg. 1(2)**

Notification of penalty decision

4.—(1) If the Secretary of State decides to require a carrier to pay a penalty under these Regulations, the Secretary of State must give the carrier a penalty notice.

(2) A penalty notice must—

(a) be in writing,

(b) state the Secretary of State's reasons for deciding to require the carrier to pay a penalty,

(c) state the amount of the penalty,

(d) specify the date on which it is given,

(e) specify the date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,

(f) specify how a penalty must be paid,

(g) include an explanation of the steps that the carrier may take if the carrier objects to the penalty (including specifying the manner and form in which any notice of objection must be given to the Secretary of State), and

(h) include an explanation of the steps the Secretary of State may take to recover any unpaid penalty.

Commencement Information

I4 Reg. 4 in force at 31.3.2015, see **reg. 1(2)**

Objection to penalty decision

5.—(1) A carrier which receives a penalty notice may object to the penalty notice by giving a notice of objection to the Secretary of State.

(2) A notice of objection must—

(a) be in writing,

(b) give the reasons for the objection,

(c) be given to the Secretary of State in the manner and form specified in the penalty notice, and

(**6**) 1911 c. 6 (1 & 2 Geo 5); section 5 was amended by the Criminal Justice Act 1948 (c. 58), section 1(2).

(d) be given before the end of the period of 28 days beginning with the date specified in the penalty notice as the date on which it is given.

(3) Where the Secretary of State receives a notice of objection, the Secretary of State must consider it and—

(a) cancel the penalty,

(b) reduce the penalty,

(c) increase the penalty, or

(d) determine not to alter the penalty.

(4) After reaching a decision as to how to proceed under paragraph (3), the Secretary of State must notify the carrier of the decision in writing.

(5) A notification under paragraph (4) must be given before the end of the period of 70 days beginning with the date specified in the penalty notice as the date on which it is given, or such longer period as the Secretary of State may agree with the carrier.

(6) A notification under paragraph (4), other than one notifying the carrier that the Secretary of State has decided to cancel the penalty, must—

(a) state the amount of the penalty following the Secretary of State's consideration of the notice of objection,

(b) state the Secretary of State's reasons for the decision under paragraph (3),

(c) specify the date, at least 28 days after the date on which the notification is given, before which the penalty must be paid,

(d) specify how the penalty must be paid,

(e) include an explanation of the carrier's rights of appeal, and

(f) include an explanation of the steps the Secretary of State may take to recover any unpaid penalty.

Commencement Information

I5 Reg. 5 in force at 31.3.2015, see **reg. 1(2)**

Appeals

6.—(1) A carrier may appeal to the court against a decision to require the carrier to pay a penalty under these Regulations.

(2) An appeal may be brought only if the carrier has given a notice of objection and the Secretary of State has—

(a) reduced the penalty under regulation 5(3)(b),

(b) increased the penalty under regulation 5(3)(c), or

(c) determined not to alter the penalty under regulation 5(3)(d).

(3) An appeal must be brought within the period of 28 days beginning with the date on which the carrier is notified of the Secretary of State's decision on the notice of objection under regulation 5(4).

(4) On appeal, the court may—

(a) allow the appeal and cancel the penalty,

(b) allow the appeal and reduce the penalty, or

(c) dismiss the appeal.